

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

STATE EMPLOYEES TRADES COUNCIL,

Charging Party,

v.

TRUSTEES OF THE CALIFORNIA STATE
UNIVERSITY,

Respondent.

Case No. LA-CE-561-H

PERB Decision No. 1514-H

April 2, 2003

Appearances: Patrick Hallahan, Attorney, for State Employees Trades Council; Office of the General Counsel by Steven Raskovich, Attorney, for Trustees of the California State University.

Before Baker, Whitehead and Neima, Members.

DECISION

NEIMA, Member: This case comes before the Public Employment Relations (PERB or Board) on exceptions filed by the Trustees of the California State University (CSU) to an administrative law judge's (ALJ) proposed decision. The ALJ found that CSU violated the Higher Education Employer-Employee Relations Act (HEERA)¹ section 3571(a) and (c)² by

¹ HEERA is codified at Government Code section 3560 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

² HEERA section 3571 provides, in relevant part:

It shall be unlawful for the higher education employer to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For

failing to provide timely and relevant information, by issuing a threat against a State Employees Trade Council (SETC) member, and by separating from employment seven temporary employees.

On March 20, 2003, CSU and SETC jointly informed the Board that they had “fully and finally settled all disputed claims at issue in this matter” and that their settlement “complies with and fulfills the spirit and intent of PERB’s Proposed Decision and with HEERA” and is “fair to all persons and entities concerned.” In light of that settlement, CSU and SETC submitted a joint request for: (1) withdrawal of the unfair practice charge; (2) withdrawal of CSU’s exceptions; and (3) dismissal of the entire action with prejudice.

After reviewing the parties’ joint notice of settlement and requests as well as the entire record in this matter, the Board finds that granting the parties’ request is in the best interest of the parties and is consistent with the purposes of HEERA.

DISCUSSION

When parties are successful in settling a dispute that formed the basis for an unfair practice charge before PERB, the Board is often presented with a request to withdraw a case that has reached the Board itself. The Board reviews each such request to determine whether granting it will effectuate the purposes of the governing statute, in this case HEERA. (See Orange Unified School District (2001) PERB Decision No. 1437 (Orange USD).) Where, as

purposes of this subdivision, "employee" includes an applicant for employment or reemployment.

(c) Refuse or fail to engage in meeting and conferring with an exclusive representative.

here, exceptions have been filed to a proposed decision, the Board is guided by PERB Regulation 32320³, which provides, in pertinent part:

- (a) The Board itself may:
 - (1) Issue a decision based upon the record of hearing, or
 - (2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper.

It is clear that the Board has the discretion to grant or deny the request and to allow the withdrawal of a charge and complaint, and to vacate a proposed decision. (Orange USD; ABC Unified School District (1991) PERB Decision No. 831b.)

In this case, the parties have entered into and jointly notified the Board of a settlement agreement which very clearly indicates the parties have resolved their dispute which formed the basis of the instant unfair practice charge. The Board concludes it effectuates the purposes of HEERA to permit withdrawal of the unfair practice charge, dismiss the complaint with prejudice, and vacate the proposed decision.

ORDER

Accordingly, it is hereby ORDERED that the unfair practice charge in Case No. LA-CE-561-H is WITHDRAWN WITH PREJUDICE; the complaint is DISMISSED WITH PREJUDICE; and the proposed decision issued on April 18, 2002, is VACATED.

Members Baker and Whitehead joined in this Decision.

³ PERB's regulations are codified at California Code of Regulations, title 8, section 31001 et seq.